

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL
OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, NEW
JERSEY, URGING THE GOVERNOR AND STATE LEGISLATURE TO REVIEW THE
PROVISIONS OF OPRA**

WHEREAS, the Morris County Municipal Clerks represent the interests of the residents and officials in the County of Morris; and

WHEREAS, the Morris County Municipal Clerks have identified compliance with the Open Public Records Act, N.J.S.A. 47:A-1 et seq. (“OPRA”) as a problem for municipalities as a result of loss efficiency and out-of-pocket costs to municipalities; and

WHEREAS, the Morris County Clerks recognize the importance and virtue of access to public records for all citizens as an important issue because it encourages open government and increases confidence in the operation of government; and

WHEREAS, the Morris County Clerks have become increasingly aware of the cost of complying with OPRA and of individuals and attorneys who are using OPRA for their personal financial gain; and

WHEREAS, Municipal Officials and Municipal Clerks believe that the Open Public Records Act needs to be reformed to create standardization in providing records to the public and to prevent individuals and attorneys from profiting from the provisions of OPRA where they have no legitimate interest in the records they are requesting; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Mount Arlington that the Governor and State Legislature are urged to review the provisions of OPRA and consult with the Municipal Clerks to reform OPRA to include:

1. There should be no potential for Records Custodians to be personally responsible for fines. The public entity would be responsible for any violations.
2. A standardized statewide rate schedule for the most common requests to create uniformity from one municipality to the next.
3. The removal of references to the actual costs of certain records as the calculations can be different and the calculations completely discount the time spent by the Municipal Clerk.
4. Clear authorization to allow the Clerks to bill for time spent organizing data, researching documents, or translating documents to a different medium. An example is scanning documents to provide electronically.
5. The creation of a standard legitimate interest to be applied to requests, such as, for example, tax payer or residency in the municipality or for the press. This would also include a mechanism to regulate commercial entities using OPRA requests to create mailing lists for advertising.

6. The municipality should be entitled to receive a seven (7) day extension for any large or complicated requests. Currently, the requestor must agree. This particularly affects small municipalities with a small or part-time only staff.
7. All requested records should be required to be picked-up within a week so that the Clerk does not have to keep them indefinitely.
8. Directions to the Government Records Council or Office of Administrative Law as to when attorney's fees should be awarded to requestors under OPRA to limit the award of Attorney's fees to situations where there was a willful violation of OPRA that resulted in the requestor failing to receive a legitimately requested document.
9. Regulations should be created to prevent a requestor from repeatedly using OPRA to request the same documents as the purpose in these multiple requests is to harass municipal officials.
10. Documents which are already available to the public on a municipality's website should be excluded from OPRA.
11. The Government Record Council should have mandatory mediation for all complaints. Currently, mediation takes place only where both parties agree.

BE IT FURTHER RESOLVED that Certified copies of this Resolution shall be provided to the Governor of the State of New Jersey, the New Jersey State Legislature, Senate President and Speaker of the Assembly, the New Jersey Department of Community Affairs, Senator Joe Pennacchio, Assemblyman Alex DeCroce, Assemblyman Jay Webber, New Jersey League of Municipalities, Morris County League of Municipalities, Morris County Board of Chosen Freeholders, all Morris County Municipalities.

I HEREBY CERTIFY this to be a true and correct Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, and adopted on September 7, 2010.


Linda DeSantis, RMC
Borough Clerk